

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

EGG WORKS, INC., *et. al.*,)
vs.)
EGG WORLD, LLC., *et. al.*,)
Plaintiffs,)
Defendants.)
)
Case No. 2:10-cv-01013-LDG-GWF
**FINDINGS AND
RECOMMENDATIONS**

On October 26, 2010, Magistrate Judge Robert J. Johnston granted Guinness Ohazuruike's motion to withdraw as counsel for Defendant Egg World, LLC. (#84). As part of the order, the Court required Egg World, LLC to designate new counsel by November 12, 2010. (*Id.*) When Defendant Egg World, LLC failed to retain counsel by late December 2010, Judge Johnston issued an order for Defendant Egg World, LLC to show cause why it should not be sanctioned for failing to comply with the Court's order. (#92). Defendant was ordered to appear before the undersigned magistrate judge at a hearing on January 24, 2011 to respond to Judge Johnston's Order to Show Cause. (See #92, #96).¹

Defendant Egg World, LLC failed to appear at the January 24, 2011 hearing on the Court's Order to Show Cause (#92). Accordingly,

RECOMMENDATION

IT IS HEREBY RECOMMENDED that Defendant Egg World, LLC's Answer (#77) should be **stricken** and its **default** entered based on Defendant's failure to comply with Court orders, failure to retain new counsel and failure to appear and respond to the Court's order to show cause why sanctions should not be imposed (#92).

¹ Defendant was initially ordered to appear at a hearing on the order to show cause before Magistrate Judge Johnston (#92), but this action was reassigned to the undersigned magistrate judge and the hearing was similarly reassigned to take place in the undersigned magistrate's courtroom. (See #96).

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 24th day of January, 2011.

George Foley Jr.